

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

IN RE: RAFAEL ORTIZ AND	{	CHAPTER 13
ANA G. ORTIZ,	{	
	{	
DEBTOR(S)	{	CASE NO. R13-43620-MGD
	{	
	{	JUDGE DIEHL

OBJECTION TO CONFIRMATION

COMES NOW MARY IDA TOWNSON, TRUSTEE herein, and objects to Confirmation of the plan for the following reasons:

1. The Debtor(s)' payments under the proposed plan are not current.

2. The Debtor(s) has failed to provide the Trustee with a copy of the federal tax return or transcript of such return for the most recent tax year ending immediately before the commencement of the instant case and for which a federal income tax return was filed, in violation of 11 U.S.C. Section 521(e)(2)(A)(i).

3. The above-styled case was filed originally as a Chapter 7 case; consequently, based on the aforesaid objections to confirmation, the Chapter 13 Trustee respectfully prays that the instant case be denied confirmation, and re-converted to a Chapter 7 proceeding, pursuant to 11 U.S.C. Section 1307(b).

4. The Debtor(s) may have transferred sold or converted an asset of the bankruptcy estate, post-petition, without prior Court approval, in violation of Bankruptcy Rule 6004 and 11 U.S.C. Section 1325(a)(3); specifically, the Debtors may have transferred sold or converted a 1996 Ford Taurus.

5. The proposed plan contains inconsistent provisions regarding the attorney fee disbursement, thereby preventing the Trustee from properly administering the plan; specifically, no monthly payment.

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6. As unsecured creditors will receive less than in a Chapter 7 liquidation, the plan does not conform to 11 U.S.C. Section 1325(a)(4).

7. The Chapter 13 petition and schedules fail to disclose a 401(k), in violation of 11 U.S.C. Section 521.

8. Due to a change in circumstances since filing, Schedules I and J do not correctly reflect the current financial situation, thereby preventing the Trustee from evaluating feasibility, 11 U.S.C. Section 1325(a)(6).

9. The Chapter 13 budget fails to include expenses for a timeshare maintenance; thereby, possibly rendering the proposed Chapter 13 plan payment to be infeasible, in violation of 11 U.S.C. Section 1325(a)(6).

10. The Debtor(s)' Statement of Financial Affairs is inaccurate and/or incomplete; the Trustee is unable to determine the feasibility of the proposed plan. 11 U.S.C. Section 1325(a)(6); specifically, question 1 omits year to date income and question 9 omits attorney fees paid direct.

11. The Debtor(s) has not filed a chapter 13 statement of current monthly income and calculation of commitment period and disposable income as required by Rule 1007(b)(6) F.R. Bankr. P.

12. The Chapter 13 petition and schedules fail to disclose two (2) 2012 Honda Civics, in violation of 11 U.S.C. Section 521.

12. The 2016(b) Disclosure Statement and the Chapter 13 plan are inconsistent with regard to the attorney's fees received pre-petition or to be paid in the plan, or both, in violation of 11 U.S.C. Section 329 and Bankruptcy Rules 2016(b) and 2017.

13. The Debtor(s)' Schedule I fails to accurately reflect a 401(k) loan repayment of \$100.00 per month thereby preventing the Chapter 13 Trustee from determining the feasibility of the proposed plan, in violation of 11 U.S.C. Section 11 U.S.C. Section 1325 (a)(6).

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WHEREFORE, the Trustee moves the Court to inquire into the above objections, deny Confirmation of this Debtor's (s') Plan and to dismiss the case; or, in the alternative, convert the case to one under Chapter 7.

_____/s/_____
Brandi L. Kirkland, Attorney
for Chapter 13 Trustee
GA Bar No. 423627

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CERTIFICATE OF SERVICE

This is to certify that I have this day served

DEBTOR(S):

RAFAEL ORTIZ
2279 SHANNONDALE PLACE
DALTON, GA 30720

ANA G. ORTIZ
2279 SHANNONDALE PLACE
DALTON, GA 30720

ATTORNEY FOR DEBTOR(S):

ROBERT RICKMAN
RICKMAN & ASSOCIATES, PC
1325 SATELLITE BLVD
SUITE 1406
SUWANEE, GA 30024

in the foregoing matter with a copy of this pleading by
depositing in the United States Mail a copy of same in a properly
addressed envelope with adequate postage thereon.

This 18th day of June 2014

_____/s/_____
Brandi L. Kirkland, Attorney
GA Bar No. 423627 or
Albert C. Guthrie, Attorney
GA Bar No. 142399
For Chapter 13 Trustee

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